

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Webb Candy, Inc. and
Licensed Sports Marketing, LLC,

Plaintiffs,

vs.

Wal-Mart Stores, Inc.,

Defendant.

Court File No. 09-cv-2056 PJS/JJK

**DECLARATION OF
ROSALYN MITCHELL
IN SUPPORT OF DEFENDANT
WAL-MART STORES, INC.'S
MOTION TO DISMISS OR,
IN THE ALTERNATIVE,
TO TRANSFER VENUE**

I, Rosalyn Mitchell, declare as follows:

1. I am an Associate General Counsel of Defendant Wal-Mart Stores, Inc. ("Walmart"). I make this declaration in support of Walmart's Motion to Dismiss or, in the Alternative, to Transfer Venue.

2. There is a written Supplier Agreement between Plaintiff Licensed Sports Marketing, LLC ("LSM") and Walmart (the "LSM Supplier Agreement"). I have reviewed the LSM Supplier Agreement.

3. There is a written Supplier Agreement between Little i, Inc. and Walmart (the "Little i Supplier Agreement"). I have reviewed the Little i Supplier Agreement.

4. Section 24 of the LSM Supplier Agreement and the Little I Supplier Agreement states:

24. **FORUM SELECTION; CHOICE OF LAW; STATUTE OF LIMITATIONS.** This Agreement, any and all Orders, and any and all disputes arising thereunder or relating thereto, whether sounding in contract or tort, shall be governed by and construed in accordance with the laws of the State of Arkansas without regard to the internal

law of Arkansas regarding conflicts of laws, and the federal and/or state courts of Benton and Washington County, Arkansas, shall have exclusive jurisdiction over any actions or suits relating thereto. The parties mutually acknowledge and agree that they shall not raise, and hereby waive, any defenses based upon venue, inconvenience of forum or lack of personal jurisdiction in any action or suit brought in accordance with the foregoing. Any legal action brought by Supplier against Company with respect to this Agreement or any Orders shall be filed in one of the above-referenced jurisdictions within two (2) years after the cause of action arises or it shall be deemed forever waived. **The parties acknowledge that they have read and understand this clause and agree willingly to its terms.** (Emphasis in original.)

5. Section 1 of the LSM Supplier Agreement and the Little I Supplier Agreement defines “Order” as “any written or electronic purchase order” issued by Walmart or its affiliates.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: August 31, 2009

s/ Rosalyn Mitchell
Rosalyn Mitchell

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